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13. ABSTRACT (Maximum 200 Words) This Directive reissues DoD Directive 1332.18, dated February 25, 1986, to update policy and responsibilities for separation or retirement for physical disability under Title 10, USC and related determinations under Titles 5 and 26, USC; incorporates policy and responsibility for conduct of Ready Reserve physical examinations and certification of physical condition under Section 10206 of Title 10, USC; authorizes procedures under DoD Instructions 1332.38 and 1332.39 for the DoD Disability Evaluation System (DES); and establishes policy for processing Active and Reserve component members who have conditions that are cause for referral for physical disability evaluation.			
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Department of Defense DIRECTIVE

November 4, 1996
NUMBER 1332.18

ASD (FMP)

SUBJECT: Separation or Retirement for Physical Disability

References: (a) DoD Directive 1332.18, "Separation from the Military Service by Reason of Physical Disability," February 25, 1986 (hereby canceled)
(b) Title 10, United States Code
(c) Sections 3502, 5532, 6308, and 8332 of title 5, United States Code
(d) Section 104 of title 26, United States Code
(e) through (h), see enclosure 1

A. REISSUANCE AND PURPOSE

This Directive:

1. Reissues reference (a) to update policy and responsibilities for separation or retirement for physical disability under reference (b) and related determinations under references (c) and (d).
2. Incorporates policy and responsibility for conduct of Ready Reserve physical examinations and certification of physical condition under Section 10206 of reference (b).
3. Authorizes procedures under DoD Instruction 1332.38 (reference (e)) and DoD Instruction 1332.39 (reference (f)) for the DoD Disability Evaluation System (DES).
4. Establishes policy for processing Active and Reserve component members who have conditions that are cause for referral for physical disability evaluation.

B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, and the Combatant Commands (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force and the Marine Corps.

C. POLICY

It is DoD policy that:

1. The DES shall be the mechanism for implementing retirement or separation because of physical disability in accordance with Chapter 61 of 10 U.S.C. (reference (b)).

2. The DES shall consist of four elements: medical evaluation; physical disability evaluation, to include appellate review; counseling; and final disposition.

3. The sole standard to be used in making determinations of unfitness due to physical disability shall be unfitness to perform the duties of the member's office, grade, rank or rating because of disease or injury. In addition, retirement or separation because of physical disability requires determinations that the disability:

a. Further:

(1) In the case of a member on active duty for more than 30 days, was incurred while the member was entitled to basic pay, or any other member of the Armed Forces, after September 23, 1996, who is on active duty but is not entitled to basic pay under 37 U.S.C. 502(b) (reference (g)) due to authorized absence to participate in an educational program, or for an emergency purpose, as determined by the Secretary concerned; or

(2) In the case of a member on active duty for 30 days or less, is the proximate result of, or was incurred in line of duty after September 23, 1996, as a result of:

(a) Performing active duty or inactive duty training;

(b) Traveling directly to or from the place at which such duty is performed; or

(c) After September 23, 1996, an injury, illness, or disease incurred or aggravated while remaining overnight, between successive periods of inactive duty training, at or in the vicinity of the site of the inactive duty training, if the site is outside reasonable commuting distance of the member's residence.

b. Is of a permanent nature.

c. Was not the result of intentional misconduct or willful neglect and was not incurred during a period of unauthorized absence.

4. Each member of the Ready Reserve shall be examined as to his or her physical fitness every five years, or more often if

the Secretary concerned considers it necessary, and, if not on extended active duty or full-time National Guard duty, shall execute and submit annually to the Secretary concerned a certificate of physical condition. Each member of the Standby Reserve shall, in accordance with procedures established by the Secretary, execute and submit annually a certificate of physical condition.

5. Any member of the Ready Reserve who is pending separation for a non-duty related impairment or condition shall be afforded the opportunity to enter the DES for a determination of fitness. If determined fit, the Secretary concerned may deem the member medically qualified for retention in the Ready Reserve in the specialty for which he or she was found fit.

6. Service members who have conditions that are cause for referral into the DES shall be processed in a timely manner. In no case shall timely disposition from the Service result in denial of transition and leave entitlements provided by statute.

7. The standards for determining unfitness because of physical disability or medical disqualification and the compensability of unfitting disabilities shall be uniform among the Services and between components within an individual Service. (See DoD Instruction 1332.38 (reference (e)).)

8. The assignment of disability ratings shall be based on the Veterans Administration Schedule for Rating Disabilities (VASRD) (reference (h)) as implemented by reference (e) and DoD Instruction 1332.39 (reference (f)).

9. Service members who are otherwise eligible for, and who have the minimum number of years of service to qualify for, military retirement under any law in effect at the time of their physical disability evaluation, and who are pending separation for unfitness because of physical disability or medical disqualification, shall be afforded the opportunity to elect disability separation or to apply for, and, if approved, be retired for length of service. Further, the same opportunity shall be afforded members recommended for placement on or separation from the Temporary Disability Retired List (TDRL).

10. A Service member shall be placed on the TDRL when the member meets the requirements for permanent disability retirement, except that the member's disability is not determined to be stable. A disability shall be determined to be stable when the preponderance of medical evidence indicates the severity of the condition will probably not change within the next five years so as to warrant an increase or decrease in the disability rating percentage.

11. The TDRL shall be managed to meet the requirements under Chapter 61 of 10 U.S.C. (reference (b)) for periodic physical

examination, suspension of retired pay, and prompt removal from the TDRL.

12. As an exception to general policy, the Secretary concerned, upon the request of the member or upon the exercise of discretion based on the needs of the Service, may continue in a permanent limited duty status either on active duty or in the Ready Reserve a member determined unfit because of physical disability when the member's Service obligation or special skill and experience justifies such continuation.

13. Service members referred for physical disability evaluation shall be afforded, at appropriate stages of processing, comprehensive counseling on the significance of the actions proposed and the related rights, entitlements, and benefits.

14. The record of proceedings for members determined unfit shall include a recommendation or determination and supporting documentation on whether the member's disability meets the requirements under:

a. 5 U.S.C. 3502, 5532, 6308, and 8332 (reference (c)) for entitlement to certain considerations or exemptions if subsequently employed under Federal Civil Service; and

b. 26 U.S.C. 104 (reference (d)) for exclusion of disability compensation from Federal gross income for purposes of taxation.

D. RESPONSIBILITIES

1. The Assistant Secretary of Defense for Force Management Policy, under the Under Secretary of Defense for Personnel and Readiness, shall:

a. In coordination with the Assistant Secretary of Defense for Health Affairs (ASD(HA)) and the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)), develop and maintain a program of instruction for the DES.

b. Monitor changes and proposed changes to military personnel and compensation statutes and DoD policy, and other pertinent authorities, to assess their impact on physical disability evaluation, Reserve component medical disqualification, and related benefits; and issue timely guidance to the Military Services, as appropriate.

c. Coordinate with the ASD(HA) and the ASD(RA) in developing policy for referral of members into the DES.

d. Issue and maintain DoD Instruction 1332.38 (reference (e)).

2. The Assistant Secretary of Defense for Health Affairs, under the Under Secretary of Defense for Personnel and Readiness, shall:

a. Monitor changes to the statutes, laws, and regulations of the Department of Veterans Affairs to assess their impact on the Department of Defense's application of the VASRD (reference (h)) to Service members determined unfit because of physical disability, and issue timely guidance to the Military Services, as appropriate, upon coordination with the Assistant Secretary of Defense for Force Management Policy.

b. Develop and periodically review medical standards for referral of Service members into the DES.

c. Recommend changes to and maintain DoD Instruction 1332.39 (reference (f)).

d. Monitor the medical element of the DES and propose corrective actions as required.

e. Develop policies for the medical component of the DES, to include the establishment of minimum standards for Medical Evaluation Boards (MEBs), Reserve component medical examinations forwarded to Physical Evaluation Boards (PEBs), and TDRL periodic reexaminations.

f. Develop and maintain a program of instruction for use by military treatment facilities on the preparation of MEBs for physical disability cases.

g. Develop a program of instruction for use by PEB adjudicators and appellate review authorities on the medical aspects of physical disability adjudication, to include the application of the VASRD (reference (h)).

h. Monitor the timeliness of the medical component of the DES.

i. Develop policy for conduct of maximum interval physical examinations and certification of physical condition for members of the Reserve components.

3. The Assistant Secretary of Defense for Reserve Affairs, under the Under Secretary of Defense for Personnel and Readiness, shall ensure that policies for the DES are applicable to members of the Ready Reserve and those policies for the Ready Reserve are consistent with the policies established for active component personnel.

4. The Secretaries of the Military Departments shall:

a. Ensure compliance with Chapter 61 of 10 U.S.C. (reference(b)), this Directive, and Instructions and guidance issued under the authority of this Directive.

b. Establish the Service-specific DES to consist of the four components designated in subsection C.2., above.

c. Manage the Service-specific DES to ensure physical disability evaluation is accomplished in a timely manner with uniform application of the governing laws and DoD policy.

d. Ensure that physicians who serve on MEBs are trained in the preparation of MEBs for physical disability evaluation.

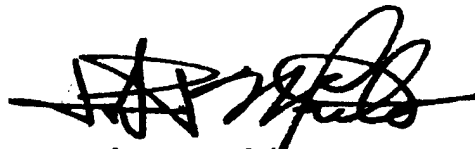
e. Ensure that PEB members and applicable review authorities are trained and certified in physical disability evaluation.

f. Ensure all matters raising issues of fraud within the DES are investigated and resolved as appropriate.

g. Defer a determination of disability retirement of any officer who is being processed for, is scheduled for, or has received non-disability retirement for age or length of service until such determination is approved by the Under Secretary of Defense(Personnel and Readiness) on the recommendation of the ASD(HA) under Section 1216(b) of reference (b).

E. EFFECTIVE DATE

This Directive is effective immediately.



John P. White
Deputy Secretary of Defense

Enclosure
References

REFERENCES, continued

- (e) DoD Instruction 1332.38, "Physical Disability Evaluation,"
November 14, 1996
- (f) DoD Instruction 1332.39, "Application of the Veterans
Administration Schedule for Rating Disabilities,"
November 14, 1996
- (g) Section 502(b) of title 37, United States Code
- (h) Title 38, Code of Federal Regulations, Part 4, "Veterans
Administration Schedule for Rating Disabilities"